

STRICTLY CONFIDENTIAL

REPORT OF INVESTIGATION AND FINDINGS

Allegations of Violation of the University of California Policy on Sexual Harassment

September 26, 2014

I. Background and Allegations

Complainant [REDACTED] alleged that her coworker, Respondent Phillip Loya, subjected her to unwelcome touching on several occasions, from December 2012 to April 2014. [REDACTED] and Loya are both UC Berkeley staff members in the [REDACTED] [REDACTED]. [REDACTED] alleged that during a happy hour event in December 2012 with other coworkers, Loya placed his hand on her thigh underneath a table, and began moving it upward until [REDACTED] moved his hand away. In May 2013, she spoke with Loya privately and asked him to stop touching her, and he agreed. Subsequently, [REDACTED] alleged that Loya touched her on the back or shoulder three more times; in Fall 2013, January 2014, and while taking a group photo in April 2014.

II. Procedural History

[REDACTED] complained about Loya's unwanted touching to her direct supervisor [REDACTED] twice. On the second occasion in late July 2014, [REDACTED] provided [REDACTED] with resources, including the contact information for HR representative Jenee Jackson. [REDACTED] contacted Jackson, and discussed the allegations with her on August 14, 2014. The same day, Jackson referred [REDACTED] allegations to the Office for the Prevention of Harassment and Discrimination (OPHD) for potential further investigation. On August 19, 2014, OPHD took the lead role in investigating [REDACTED] allegations. The case was assigned to Complaint Resolution Officer Paula Raffaelli (the "Investigator") on August 29, 2014.

III. Interim Remedies

Loya moved [REDACTED] farther away from [REDACTED] on September 14, 2014. The Investigator confirmed with [REDACTED] on September 10, 2014, that [REDACTED] and Loya will not work on any projects one-on-one, and that all communications between them will be through email or in staff meetings with other colleagues present. The Investigator also confirmed with [REDACTED] on September 10, 2014, that Loya would not be placed in the interim director position while [REDACTED] is [REDACTED]. The

Investigator confirmed that [REDACTED], an [REDACTED] staff member, was announced as interim director on September 13, 2014.

IV. Jurisdiction

The Office for the Prevention of Harassment and Discrimination has campus-wide responsibility for responding to sex discrimination complaints and implementation of the University of California Policy on Sexual Harassment¹, which includes the investigation and resolution of complaints received against faculty, staff and students.

V. Applicable Policy

The University of California Policy on Sexual Harassment defines sexual harassment as unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. In the interest of preventing sexual harassment, the University will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, coaches, housestaff, students, and non-student or non-employee participants in University programs, such as vendors, contractors, visitors, and patients. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

In determining whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

VI. Summary of Findings

Based upon a preponderance of the evidence, the Respondent, Phillip Loya, violated the UC Policy on Sexual Harassment. A detailed discussion of the findings is included in Section VIII.

¹ This policy was replaced on February 25, 2014 with a combined Sexual Harassment and Sexual Violence Policy. Because the majority of the behavior attributed to Loya occurred prior to February 25, 2014, the allegations are analyzed under the then-existing policy quoted herein. However, the analysis and outcome would be the same under either policy.

VII. The Investigation

OPHD Complaint Resolution Officer, Paula Raffaelli ("the Investigator") conducted the administrative investigation. She interviewed Complainant [REDACTED] on September 3, 2014 and conducted a follow-up interview September 11, 2014. She interviewed Respondent Loya on September 8, 2014, and did a follow-up interview on September 22, 2014. She interviewed Witness [REDACTED] on September 10, 2014. She also reviewed email communications between [REDACTED] and [REDACTED] and between [REDACTED] and Jenee Jackson, and photos and text messages provided by both [REDACTED] and Loya.

A. Statements

1. Complainant's Statement

[REDACTED] is a UC Berkeley staff member in the [REDACTED]. [REDACTED] is a small office with only about [REDACTED] staff members. [REDACTED] and Loya work together at [REDACTED]. Until May 2013, Loya was stationed in Los Angeles, but he often traveled up to Berkeley. [REDACTED] said that until December 2012, she noticed she got a lot of hugs from Loya, but she did not think anything was wrong. She said that around July 2012, she, Loya, her supervisor [REDACTED] and [REDACTED] husband went to a movie. She felt Loya's hand brush her thigh and she moved her leg away. But she assumed this was an accident and did not feel the need to say anything. However, in December 2012, [REDACTED], Loya, and the rest of the [REDACTED] team went to a happy hour event at Pappy's, a sports bar on Telegraph Ave. [REDACTED] was sitting next to Loya at a long table with the rest of the [REDACTED] team, as well as [REDACTED] staff who joined them – about 15 people total. Loya placed his hand on [REDACTED] thigh under the table, and began to move his hand up toward [REDACTED] crotch. [REDACTED] grabbed his hand and pushed it away from her thigh. She did not look at Loya and neither [REDACTED] nor Loya said anything. [REDACTED] said she was "in shock."

Over the subsequent winter break, [REDACTED] grew anxious because she was scheduled to fly to Los Angeles alone to support Loya on a work project and she did not want to go alone. In January 2013, she decided to speak with her supervisor [REDACTED]. She told [REDACTED] about the Pappy's incident, as well as the earlier movie incident from July 2012, which she decided to bring up in light of her discomfort after the Pappy's incident. [REDACTED] told [REDACTED] that she and [REDACTED] other female staff members would join her on the trip to LA in February 2013, and the [REDACTED] of them drove down to LA together in a van. At their January 2013 meeting, [REDACTED] also told [REDACTED], "I encourage you to talk to [Loya]."

In May 2013, [REDACTED] spoke with Loya privately. She told him that she did not want him to touch her, that the touching made her uncomfortable, that she did not "like how

you touch me," and she wanted him to stop. She did not give him any specific examples of unwelcome touching. Loya responded, "This is how I am" and "I am just a touchy person." She told him not to touch her more than necessary for a professional greeting. The meeting lasted approximately seven minutes.

After the May 2013 discussion, [REDACTED] said that Loya touched her three more times. First, around Fall 2013, he touched her on the back but she "let it go" because she assumed Loya "forgot" that he was not supposed to touch her. In January 2014, while she and other coworkers were walking outside to get coffee at Strada, he rubbed or "caressed" her back while they were beginning to cross the street. The third time was in late April 2014 during a work event. While [REDACTED] staff and others were posing for a photo, Loya placed his hands on [REDACTED] back.

On July 28, 2014, [REDACTED] spoke with [REDACTED] again. She told [REDACTED] about the three incidents discussed above, and told her that due to her discomfort with Loya she had eliminated herself from social gatherings with coworkers and did not "feel a part of th[e] team." [REDACTED] also expressed concerns that her own relationship with [REDACTED] had deteriorated. At this meeting, [REDACTED] told [REDACTED] that Loya "touches me too, but I'm married." [REDACTED] asked, "You're okay with him touching you?" and [REDACTED] responded, "He didn't touch me like he touched you." [REDACTED] understood the latter statement to refer to the Pappy's incident.

[REDACTED] asked [REDACTED] if she wanted to apply to be interim director, but [REDACTED] declined. [REDACTED] explained that because of the incidents with Loya and her subsequent elimination from group events, her confidence is low, and she did not feel appreciated or that the team valued her. [REDACTED] asked [REDACTED] how she would feel if Loya became the interim director, and [REDACTED] responded that she would not like it. [REDACTED] said he could be the interim director, but [REDACTED] could not report to him.

At the time of the September 3 interview with the Investigator, [REDACTED] and Loya were [REDACTED]. This made [REDACTED] uncomfortable even though she stated that her back is to him, she "zones out," and she does not know what he is doing. She said he has not touched her since April 2014. [REDACTED] sometimes uses the [REDACTED] office to get work done.

2. Respondent's Statement

Phillip Loya is a UC Berkeley staff member in the [REDACTED]. He has worked with [REDACTED] since November 2008. In 2010, he moved to [REDACTED] to do outreach with students. He moved back to [REDACTED] in May 2013.

His first indication of a problem with [REDACTED] was when they had their one-on-one conversation somewhere "between March and June 2013." [REDACTED] told him that she

felt uncomfortable when he touched her. Specifically, she said it made him uncomfortable when he touched her arm or back. He was taken aback because they often took photos together, and because the [REDACTED] staff was close. He noted that [REDACTED] had previously picked him up from the airport and/or they would go to dinner together. Though he was taken aback, he understood she could be uncomfortable. He could tell she was nervous and he was too, and he agreed not to touch her anymore. He apologized and said he would give her the space she needs, and he felt that the short meeting ended on a good note. He was confused about why [REDACTED] was upset because she did not give any specific examples, but he did not want to probe further or talk to anyone else about it. He denied saying anything along the lines of "this is how I am" or "I am just a touchy person."

After this talk, Loya spoke with [REDACTED]. [REDACTED] told Loya to be careful in his approach with [REDACTED] and to ensure that other people were around them. She did not tell him of any specific incidents.

Subsequently, Loya remembers that his relationship with [REDACTED] went back to normal. He specifically remembers making an effort to wave goodbye to [REDACTED] rather than hug her at a May/June 2013 retirement party for former director. He remembers that during this time their work did not really coincide and that they talked casually. He does not remember any physical touching after the May 2013 conversation.

Loya spoke with [REDACTED] again in August 2014. He said that at this meeting, [REDACTED] told him that [REDACTED] was uncomfortable because he touched her on her arm or elbow and also at a graduation event called the [REDACTED], in late April 2014. He does not remember touching [REDACTED] on either occasion. [REDACTED] also told him that [REDACTED] complained about an incident where several people went to see a movie for their colleague [REDACTED] birthday, Loya placed his hand on [REDACTED] knee, and [REDACTED] took his hand and moved it away. Loya does not remember this incident taking place. He remembers going to see a movie for [REDACTED] birthday in May 2013, but he does not remember [REDACTED] being there. He told [REDACTED] he felt bad and asked what he could do. [REDACTED] told him to be hyperaware of his actions.

When asked about the December 2012 Pappy's incident, Loya said he had no memory of the specific night, and that he did not touch [REDACTED] leg. He said he did not know how his hand would even be on her thigh, and "for sure I would not do that with anyone outside of my significant other." He could not think of any explanation for why [REDACTED] would claim he did it. When asked if perhaps [REDACTED] was conflating the movie incident and the Pappy's incident, Loya stated that he did not remember touching [REDACTED] on the leg in either event, and did not understand why [REDACTED] was making these allegations.

Loya also denied touching [REDACTED] after she spoke with him in May 2013. He denied placing his hand on her back and rubbing her back, and stated that that is not something he typically does; instead, he is a "hugger" and a "high-fiver." Regarding the April 2014 photo touch, he does not remember touching [REDACTED] back, but he acknowledged that he "could've" touched her back or shoulder.

3. Witness Statement

[REDACTED] is the [REDACTED]. She said that Loya is very comfortable around people and has put his hands on her shoulders, but not in an uncomfortable way. She feels any touching from Loya was very casual, meaning that he did not "linger" for any inappropriate time or touch at any inappropriate times.

[REDACTED] first spoke with [REDACTED] around summer of 2013. She remembers that [REDACTED] told her about an incident that happened while [REDACTED], Loya, and some other [REDACTED] staff went to the movies, in May or summer of 2013. She remembers telling her that at the movies, Loya placed his hand on [REDACTED] leg, was uncomfortable and pushed his hand away, and then Loya put his hand back on her leg. [REDACTED] was unsure exactly what the details or timing was on this incident, but speculated that it was in summer 2013 when [REDACTED], Loya and two other colleagues went for a colleague's [REDACTED] birthday.

She spoke with Loya shortly after [REDACTED] told him to stop touching her in May 2013. She told Loya about the movie incident allegation. She remembers that Loya was surprised because he and [REDACTED] had gone out to dinner before and she had picked him up from the airport. But he understood that [REDACTED] could be uncomfortable.

In late July 2014, [REDACTED] spoke with [REDACTED] a second time. [REDACTED] told [REDACTED] that after [REDACTED] told Loya to stop touching her, he touched her shoulder on one occasion, her back on a second, and her back again while a photo was being taken for the [REDACTED].

In August 2014, [REDACTED] followed-up with Loya after this second complaint, and told him that [REDACTED] complained about three additional incidents. Loya told [REDACTED] he could not remember intentionally touching [REDACTED]. He was concerned and surprised but not defensive.

[REDACTED] said she did not remember hearing about the Pappy's incident, or any incidents that happened in 2012. She did not have any memory of speaking with [REDACTED] prior to summer 2013; her memory is that her first talk with [REDACTED] was in May or summer of 2013. [REDACTED] also did not remember telling [REDACTED] that she would join her on a trip to Los Angeles in February 2013 so that she would not need to go alone; [REDACTED]

recollection is that there was never a plan for [REDACTED] to go alone and that the plan was always for a group of people to go.

When asked about whether she told [REDACTED], "He hasn't touched me the way he touched you," [REDACTED] did not remember making the statement. But she believes that if she did say it, she would have been referring to the "movie incident" in which she understood Loya placed his hand on [REDACTED] leg.

B. Documentary Evidence

1. Emails: The Investigator reviewed emails between [REDACTED] and [REDACTED] that [REDACTED] provided. In an email dated Friday, May 24, 2013, [REDACTED] wrote to [REDACTED]:

I wanted to give you a heads up regarding my 'no physical contact' conversation with [Loya]. I met with [Loya] in [REDACTED] office at 1:30p today. Our conversation last[ed] 7 minutes. I did let him know that him touching me outside a greeting gesture made me uncomfortable. I also informed him that you and I had talked about his inappropriate touching. During our meeting he was respectful. I am okay with you following up with him. Thank you again for your support.

In an email dated Tuesday, August 12, 2014, [REDACTED] wrote to [REDACTED]:

I wanted to follow-up on the conversation that we had on Monday, July 28th, regarding [REDACTED] continued inappropriate touching (3 incidents since our one-on-one meeting around July 2014²) and the impact it has had on my work performance, inclusivity of the [REDACTED] Team, and my concerns of feeling safe around him. I would like to resolve this matter as soon as possible and will appreciate any guidance you can give me on what I need to do for the next steps. Thank you for your time and support.

[REDACTED] responded on August 12: "Thank you for following up and sharing the situation with me. I can't imagine how difficult it was to carry it for so long and deal with it by yourself." [REDACTED] provided [REDACTED] with information and contacts for the staff Ombuds office, CARE services, and HR.

2. Photos: The Investigator reviewed three photos [REDACTED] submitted from the April 2014 [REDACTED]. The photos show [REDACTED] squatting/leaning down in the front row, and Loya placing one or both hands on [REDACTED] back while he is standing behind her.

The Investigator reviewed several photos Loya provided of various events where he and

² [REDACTED] clarified in an email to Jenee Jackson on Thursday, August 14, 2014 that she inadvertently wrote July 2014 but meant May 2013.

[REDACTED] and/or other members of [REDACTED] staff were photographed. Three photos show [REDACTED] and Loya close together, with their heads touching or their arms around one another. The photos of [REDACTED] and Loya next to each other are dated May 4, 2012, May 18, 2012, and October 15, 2013; those photos precede [REDACTED] May 2013 talk with Loya.

3. **Text Messages:** The Investigator reviewed text messages [REDACTED] sent to [REDACTED] about Loya on May 13, 2014, "shortly after the [REDACTED] staff was moved again [REDACTED]." In the messages, [REDACTED] expresses her discomfort with [REDACTED] Loya. [REDACTED] refers to [REDACTED] as Loya's "work crush," and [REDACTED] tells [REDACTED] "It is so uncomfortable when he get [sic] too close or gives me too much attention."

Finally, the Investigator reviewed Facebook and text messages between [REDACTED] and Loya from July 2012, when [REDACTED] wishes Loya a happy birthday, and December 2012 where they wish each other a happy new year.

VIII. Factual Findings and Analysis

A. Standard of Evidence: Preponderance of the Evidence

Findings in this investigation report are based on a "preponderance of the evidence" standard. In other words, after reviewing all the evidence, including the relative credibility of the parties and their statements during interviews, whether it is more likely (or probable) than not that the conduct occurred as alleged. If the conduct did occur as alleged, then an analysis is completed to determine whether the conduct violated University policy. Please note: the report's findings do not reach conclusions whether the alleged conduct violated state or federal laws, but instead address whether the University's policies were violated.

B. Fact-Finding

1. Did Loya rub his hand on [REDACTED] thigh at Pappy's sports bar in December 2012?

[REDACTED] alleged that while she, Loya, and others from the [REDACTED] staff were at a happy hour event at Pappy's sports bar in December 2012, Loya rubbed his hand up her thigh. She alleged that no one else saw this because it was underneath a table, that she grabbed Loya's hand and moved it away from her thigh, and that neither she nor Loya said anything and she did not look at him. She said that she was upset about this incident, and told her supervisor in January 2013 about it, in part because she was scheduled to go to LA by herself to support Loya.

Loya said he does not remember touching [REDACTED] in this manner, and said, "for sure I would not do that with anyone I know outside of my significant other." He also said

there was "no way [he] would have done that and not remembered." He did not remember that [REDACTED] was initially scheduled to fly to LA alone in February 2013, and stated that any time [REDACTED] staff came to LA it was always in groups.

[REDACTED] did not remember speaking to [REDACTED] in January 2013 and did not remember anything about an incident taking place at Pappy's or any complained-about incidents from 2012 in general. She also did not remember that [REDACTED] was scheduled to fly to LA alone in February 2013. Yet she described [REDACTED] telling her about an incident she believed took place at a movie theater, in May or summer of 2013, where Loya placed his hand on [REDACTED] leg, [REDACTED] was uncomfortable and pushed his hand away, and then Loya put his hand back on her leg. She also explained that she confronted Loya with this allegation, and Loya confirmed in a follow-up interview that [REDACTED] asked him about touching [REDACTED] leg at a movie night for their colleague birthday. When asked about [REDACTED] memory of events, neither [REDACTED] nor Loya remembered [REDACTED] attending a movie night for [REDACTED] birthday in May 2013 (Loya confirmed that [REDACTED] birthday is in May).

The Investigator found [REDACTED] to be more credible in her description of events. Though there are conflicting accounts about where and when Loya placed his hand on [REDACTED] thigh, it is clear that [REDACTED] complained to [REDACTED] about Loya putting his hand on her thigh in any event, as all parties confirmed this. And in either [REDACTED] account (happened in December 2012, complained in January 2013) or [REDACTED] account (happened in May 2013, complained in May 2013), [REDACTED] complained about the touching in a short period of time after it happened. Further, the description that [REDACTED] provided is strikingly similar to the description [REDACTED] provided of the events at Pappy's. Because [REDACTED] said she also told [REDACTED] in January 2013 about an incident at the movies where Loya brushed his hand on her thigh prior to the Pappy's incident, it is plausible that [REDACTED] conflated the two events when she spoke to Loya about them.

Bolstering [REDACTED] credibility is the fact that [REDACTED] and Loya had a friendly relationship prior to the Pappy's incident and, based on the photos Loya provided, they often put their hands around one another's shoulders or touched their heads together during photos. But [REDACTED] did not bring any concerns to her supervisor's attention until the touching escalated to Loya putting his hand on her thigh. Further, Loya stated that he felt there was a "shift" in his interactions with [REDACTED] around January 2013, though he believed it was because he made a snide comment to her during work. After reviewing the credibility of the parties, the context in which this incident allegedly occurred, and the totality of the circumstances, it is determined that it is more likely than not that Loya rubbed his hand up [REDACTED] thigh at Pappy's in December 2012.

2. Did Loya touch [REDACTED] three additional times after she told him to stop touching her in May 2013?

[REDACTED] said that Loya touched her in Fall 2013, he rubbed or "caressed" her back in January 2014, and that he touched her on her back in April 2014. Loya denied that he touched [REDACTED] since [REDACTED] told him to stop touching her in their May 2013 discussion, and he stated that he purposely kept a distance from [REDACTED] and opted to wave goodbye to her rather than hug her goodbye. But he acknowledged it was "possible" that he touched her on her back during the photo for the April 2014 [REDACTED].

The photos [REDACTED] provided clearly show Loya with his hands on [REDACTED] back during the April 2014 [REDACTED]. After reviewing the credibility of the parties and the totality of the circumstances, it is determined that it is more likely than not that Loya touched [REDACTED] on the other two occasions [REDACTED] alleged. The Investigator finds [REDACTED] more credible, in part because she complained to [REDACTED] that Loya touched her three times since she told him to stop touching her in May 2013, and she documented this in an email to [REDACTED] dated August 12, 2014. [REDACTED] also stated that [REDACTED] told her about Loya touching her three additional times, once on her shoulder, once on her back, and again on her back during the [REDACTED] photo. [REDACTED] also provided the photographic evidence showing that Loya touched her during the [REDACTED] after she told him to stop, which lends credibility to her claim that he touched her on other occasions.

C. Did the Alleged Behavior Constitute Sexual Harassment in Violation of the UC Policy?

The University of California Policy on Sexual Harassment defines sexual harassment as unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment.

In determining whether reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

1. Was the Conduct Unwelcome?

Yes. [REDACTED] twice told her supervisor that she was uncomfortable with Loya touching her: first in January 2013 and again on July 28, 2014. [REDACTED] said she was "in shock" when Loya placed his hand on her thigh at Pappy's. She told Loya directly that she was

uncomfortable with him touching her, and he does not dispute that. She additionally provided emails between her and [REDACTED] demonstrating that she was uncomfortable with Loya's touching. She further provided text messages where she told [REDACTED] that she was uncomfortable around Loya.

2. Was the Conduct of a Sexual or Gendered Nature?

Yes. Loya's action of rubbing his hand up [REDACTED] thigh is sexualized conduct. Similarly, [REDACTED] described Loya placing his hand on her back and rubbing it in a "caressing" motion. Unlike simply placing his hand on her back as if to say hello, or to perhaps guide her across the street, the rubbing, "caressing" motion makes this a sexualized act.

3. Was the conduct severe and/or pervasive and objectively offensive?

Loya's action of placing his hand on [REDACTED] thigh and moving it upward toward her crotch is arguably severe conduct. [REDACTED] had to physically remove Loya's hand from her thigh, and described being in "shock" when it happened. Even if not viewed as severe conduct, however, the Pappy's incident coupled with the three additional unwelcome touches demonstrates pervasive conduct. In Loya's favor, these four incidents are spread out over a one and one-half-year period. Additionally, the three additional touches were not as egregious as placing a hand upon [REDACTED] thigh and moving it upward. But the Pappy's incident is particularly troubling, and the remaining three incidents occurred after [REDACTED] explicitly told Loya to stop touching her. On balance, Loya's continued unwanted touching of [REDACTED] was pervasive conduct.

4. Did submission to or rejection of this conduct explicitly or implicitly affect a [REDACTED] employment, unreasonably interfere with her work performance, or create an intimidating, hostile, or offensive working environment?

Loya's unwanted touching of [REDACTED] interfered with her work performance. [REDACTED] eliminated herself from social gatherings with [REDACTED] staff, and she did not feel like she was a "part of the [REDACTED] team" after the unwelcome touching from Loya. She explained that [REDACTED] initially asked her if she was interested in the interim director position, but [REDACTED] declined to be considered because, as a result of her discomfort around Loya, her confidence was low and she did not feel that the [REDACTED] team valued her anymore. She stated that before the incidents with Loya she would have been interested in the interim director position. She expressed that sometimes she opted to do her work in [REDACTED] [REDACTED] office at [REDACTED] rather than at her own desk because of her discomfort with having Loya [REDACTED] (where he was located at the time of the September 3, 2014 interview with the Investigator). She also explained that after the

Pappy's incident, she began looking for a different job because she was too uncomfortable in her work environment. When she applied to but did not get a different job, she felt that her relationship with [REDACTED] also changed, and she noted that [REDACTED] did not check in on her as often and began forwarding her job announcements.

IX. Conclusion

The Investigator evaluated the record of the allegations as a whole and gave consideration to the totality of the circumstances, including the context in which the alleged incidents occurred. The standard by which the evidence was weighed was "more likely than not." The evidence gathered supports the conclusion that Respondent Phillip Loya more likely than not subjected Complainant [REDACTED] to pervasive, unwanted touching. Therefore, it is determined that Loya did violate the University of California Policy on Sexual Harassment.